

1 your records?

2 A Can you be more specific? The source?

3 Q The files that were contained on the disks. Do
4 you know what computer system those files from the box came
5 from?

6 A They came from the Southland computer system.

7 Q Do you have an understanding as to whether the
8 files on the disk that was in the box were the same or
9 different as to the files you either received directly from
10 Craig Sobel or received access from Craig Sobel to download?

11 MR. SHAINIS: Objection. The question is
12 compound, to say the least, clearly suggesting an answer.

13 JUDGE CHACHKIN: Sustained.

14 BY MR. SCHAUBLE:

15 Q Mr. Cordaro, do you currently have an
16 understanding as to what the files that were on the computer
17 disk in the box are?

18 A Yes.

19 Q And what is that understanding?

20 A It's the customer list of Lucky's.

21 Q Since you first received those files, have you
22 ever altered those files in any way?

23 A No.

24 Q To your knowledge, has anybody ever altered those
25 files?

1 A To my knowledge, no.

2 Q Prior to reviewing the box in connection with
3 document production in Mr. Kay's lawsuit, were you aware
4 that you had these files in your possession?

5 MR. SHAINIS: Objection. Relevancy.

6 JUDGE CHACHKIN: I will overrule the objection.

7 THE WITNESS: Can you restate the question?

8 MR. SCHAUBLE: Certainly.

9 BY MR. SCHAUBLE:

10 Q Prior to reviewing the box in connection with
11 discovery in the Kay lawsuit, were you aware that you had in
12 your possession computer files containing Kay customer
13 records or Southland customer or Lucky's customer records?

14 A No.

15 JUDGE CHACHKIN: You knew what you had taken, did
16 you not, when you were emptying out your desk before leaving
17 Kay?

18 THE WITNESS: No, Your Honor. I grabbed a box of
19 CDs or floppy disks that had word processing letters and
20 that nature on there. In the box there was a little floppy
21 disk holder that had about ten CDs in there or ten floppy
22 disks.

23 MR. SCHAUBLE: Mr. Cordaro, I am now handing you a
24 different book of exhibits.

25 JUDGE CHACHKIN: What exhibits are we looking at

1 now?

2 MR. SCHAUBLE: 281 to 285, Your Honor.

3 BY MR. SCHAUBLE:

4 Q Mr. Cordaro, turn for a moment to WTB Exhibit 281.

5 A Okay.

6 Q Have you seen this previously?

7 A No.

8 Q Reviewing the information contained herein, do you
9 know if this is the format of the information in this
10 exhibit --

11 JUDGE CHACHKIN: Wait a minute. The witness said
12 he has never seen this. He does not recognize this.

13 MR. SCHAUBLE: Your Honor --

14 JUDGE CHACHKIN: That is what the witness
15 testified to.

16 MR. KNOWLES-KELLETT: Okay. Can I explain real
17 quickly?

18 JUDGE CHACHKIN: Explain what?

19 MR. SHAINIS: Can we ask the witness to leave,
20 Your Honor, if he is going to do an explanation?

21 JUDGE CHACHKIN: Yes.

22 MR. KNOWLES-KELLETT: Can you please allow Mr.
23 Cordaro to leave for just one second?

24 (Pause.)

25 The files on the disks are just that. You can use

1 multiple programs to print them out. This is the data that
2 he provided to us.

3 JUDGE CHACHKIN: He said he does not recognize
4 this.

5 MR. KNOWLES-KELLETT: Right. He is not going to
6 recognize this printout of the data, and we are about to
7 explore with him the fact that this is the --

8 JUDGE CHACHKIN: You are going to have to call the
9 witness who did this printout. He cannot tell you about it.
10 He does not know anything about it.

11 MR. KELLER: That is right, Your Honor. The
12 proper way to authenticate this would be someone who could
13 testify that he took the data files that Mr. Cordaro
14 provided and did this printout and that this is an accurate
15 representation. This witness has never seen it.

16 MR. KNOWLES-KELLETT: This was done under my
17 supervision.

18 JUDGE CHACHKIN: Fine, but this witness does not
19 know anything about it.

20 MR. KELLER: You cannot testify.

21 JUDGE CHACHKIN: He cannot testify about it.

22 MR. KNOWLES-KELLETT: Okay. I will get the
23 person.

24 Do you agree, Your Honor, that we could ask him
25 questions about this data?

1 JUDGE CHACHKIN: If he knows anything about it.

2 MR. KNOWLES-KELLETT: Okay.

3 MR. SHAINIS: He said he does not recognize it.

4 MR. KELLER: Can I ask? Just in the interest of
5 expedience, my understanding is the Bureau has previously,
6 and I do not know if you stipulated, but you represented
7 that during the time between the admission session and our
8 first trial date, December 21, I believe, that you had
9 compared this data to the customer print screens and that
10 you found minor discrepancies going both ways, which would
11 be insignificant.

12 Therefore, what is the relevance? What is the
13 significance of this? Is it really worth all these
14 gyrations to authenticate this data if the customer print
15 screens that are already in evidence have the same
16 underlying data?

17 MR. SCHAUBLE: Your Honor, we are trying to get
18 this in for a limited purpose of --

19 JUDGE CHACHKIN: What purpose?

20 MR. SCHAUBLE: -- the nature of the information
21 that was available.

22 MR. KNOWLES-KELLETT: Kay could have copied this
23 document in one minute and sent it to us, okay. That is
24 what --

25 MR. KELLER: Consistent with our telephone

1 conversation this morning, why would the disk itself not be
2 better evidence of that, subject to verification, the same
3 way that you gave a response to my request for stipulations?

4 MR. KNOWLES-KELLETT: If Your Honor would like us
5 to put the file that he produced into evidence, that would
6 be fine.

7 JUDGE CHACHKIN: I do not want you to do anything,
8 but you are representing your case.

9 MR. KNOWLES-KELLETT: Okay.

10 JUDGE CHACHKIN: The witness does not recognize
11 this material. Something was done with the material.

12 MR. KNOWLES-KELLETT: Yes. He is not going to
13 recognize this formatted printout. We are hoping, and we
14 would like to explore for just a minute, that this is the
15 data contained in the --

16 MR. SHAINIS: How would he know that?

17 MR. KELLER: There are several other things here.
18 It would be one thing if you gave it to him in advance and
19 gave him time to review it. Then he could come in and say
20 yes, I have studied this. I got this two weeks ago. I have
21 studied it. But, you are not. You are going to ask him in
22 two minutes to review 300 or 400 pages?

23 He also does not have a computer to verify data
24 files. I am sure he does not remember in his mind what is
25 on the disk.

1 MR. SHAINIS: Maybe you should bring in a computer
2 to give him an opportunity to do that.

3 (Pause.)

4 JUDGE CHACHKIN: As I gather from the evidence,
5 this witness turned over certain disks to you.

6 MR. SCHAUBLE: Correct.

7 JUDGE CHACHKIN: That is the end of what he knows.

8 MR. KNOWLES-KELLETT: No. What he testified is
9 that he was working with this data to create a link between
10 the --

11 JUDGE CHACHKIN: Whatever work he was doing, this
12 is not the work he produced as a result of using the disk.

13 MR. KNOWLES-KELLETT: No. This is the simple data
14 fields that he was using to create the link.

15 JUDGE CHACHKIN: He does not have the documents
16 that he used in using the disk.

17 MR. KNOWLES-KELLETT: The disk is not a document,
18 Your Honor.

19 JUDGE CHACHKIN: I understand. The disk was
20 turned over to you, and somebody under you --

21 MR. KNOWLES-KELLETT: Took Paradox, which is a
22 spreadsheet --

23 JUDGE CHACHKIN: Fine, but that is the only
24 individual that could testify about what he did.

25 MR. SHAINIS: What is the reluctance to bring the

1 person who did it? I mean, there are all kinds of questions
2 on chain of custody.

3 The person who did it, did they know what they
4 were doing? We clearly would have the right to know the
5 name of the person, you know, what their qualifications are,
6 what kind of training do they have to do this.

7 MR. SCHAUBLE: Your Honor, this is not a matter of
8 training.

9 JUDGE CHACHKIN: Regardless, you cannot shortcut
10 it. This witness cannot testify about this. He does not
11 know anything about it. He was never asked to compare this
12 material with anything else apparently.

13 MR. SHAINIS: Did you send it to him ahead of time
14 or when you were --

15 MR. KNOWLES-KELLETT: He saw these in his
16 deposition.

17 MR. KELLER: He did not see this exhibit. This
18 exhibit is dated 1998. May 14, 1998.

19 MR. KNOWLES-KELLETT: It was printed a second
20 time. Craig Sobel stipulated to it. I think actually your
21 side stipulated that --

22 MR. SHAINIS: Craig could not stipulate to
23 anything, I do not think. He is not a party, so how did he
24 stipulate?

25 JUDGE CHACHKIN: What do you want to do? If this

1 witness had nothing to do with this, he cannot testify about
2 it.

3 MR. SCHAUBLE: Your Honor, I note it is 12:30 p.m.
4 now.

5 JUDGE CHACHKIN: Yes.

6 MR. SCHAUBLE: Can we review this matter over
7 lunch and report back to you?

8 JUDGE CHACHKIN: All right. We will take lunch
9 until 1:30 p.m.

10 Do you need more time to prepare for
11 cross-examination or what?

12 MR. SHAINIS: Your Honor, could we get until
13 2:00 p.m.?

14 JUDGE CHACHKIN: All right.

15 (Whereupon, at 12:30 p.m. the hearing was
16 recessed, to reconvene at 2:00 p.m. this same day, Tuesday,
17 January 12, 1999.)

18 //

19 //

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A F T E R N O O N S E S S I O N

2:00 p.m.

Whereupon,

VINCENT CORDARO

having been previously duly sworn, was recalled as a witness herein and was examined and testified further as follows:

DIRECT EXAMINATION RESUMED

BY MR. SCHAUBLE:

Q Good afternoon, Mr. Cordaro.

A Good afternoon.

Q Mr. Cordaro, when you produced the files we discussed previously at the deposition in this proceeding, did you produce the disk that was in your box?

A Which deposition?

Q At your first FCC deposition.

A Yes.

Q Do you recall how many disks you provided at the deposition?

A Yes.

Q How many?

A Two.

Q Did the two disks contain identical files?

A Yes.

Q How did you produce the second disk containing the identical information?

1 A Just a disk copy.

2 Q Mr. Cordaro, do you recall the type of file that
3 was on the disk that you produced at your deposition?

4 A I believe they were zip files.

5 Q Do you recall the format of the files that were
6 zipped together?

7 A I believe they were what we call DBF files.

8 Q Okay. What is your understanding of what DBF
9 files are?

10 A My understanding is it's a format data file that's
11 widely used among D-base and other applications.

12 Q What format would the files on Mr. Kay's system
13 have been in?

14 A Well, they came to me as DBF, so I'd have to
15 assume they were DBF.

16 Q Now, when you conducted the disk copy operation to
17 create the second disk with the zip file, do you recall
18 approximately how long that took you?

19 A It couldn't have taken more than a few minutes.

20 Q Mr. Cordaro, do you have an understanding as to
21 how long it would have taken to copy the underlying DBF
22 files off of Mr. Kay's system onto a floppy or floppies?

23 A No.

24 Q Do you recall approximately how long -- strike the
25 question, Your Honor.

1 MR. SCHAUBLE: No further questions, Your Honor.

2 JUDGE CHACHKIN: All right. Cross-examination?

3 MR. KELLER: Yes, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. KELLER:

6 Q Good afternoon, Mr. Cordaro. You said that before
7 you joined Mr. Kay's operation, you owned your own company,
8 Mobile Radio Service Station?

9 A Yes.

10 Q And that was a two-way service. Were you a
11 dealer? I want you to describe in a little bit more detail
12 what exactly that operation entailed.

13 A We serviced, repaired and sold two-way radios.

14 Q Now, it is true, is it not, that you also held an
15 FCC user license in connection with that business?

16 A Yes.

17 Q Now, you stated also this morning, I believe, that
18 you made arrangements for your customers to receive repeater
19 service from other dealers. I gather that is because you
20 yourself did not provide repeater service directly?

21 A Yes.

22 Q What types of arrangements would you make?

23 A I would turn over the customer to other repeater
24 operations similar to Lucky's Two-Way.

25 Q Did you maintain a relationship with the customer,

1 or did you just refer the customer to somebody else?

2 A I maintained a relationship with the customer. I
3 didn't --

4 Q Did you bill and collect for the service?

5 A No.

6 Q So what happened? Did you receive a commission,
7 or did you pay somebody to bill and collect? Describe to me
8 the business relationship if you have a customer who you
9 want to relay to somebody else to receive repeater service.

10 A I would call someone like Lucky's and say I have a
11 new customer for you, and they would either send over a
12 packet of information or have the customer sign forms and
13 collect a check from them, first and last deposit, and they
14 would activate the customer.

15 My job was to or our company was to program the
16 radios with codes and activate them. The repeater company
17 would be doing the billing. I still maintained them as a
18 repair service identity as a company -- as a customer to me.

19 Q Okay. Was the customer's contract with you, or
20 was it with Lucky's or whoever the dealer was?

21 A It would have been whoever the repeater operator
22 was.

23 Q Did you receive compensation from the repeater
24 operator?

25 A Some, yes. Some of the repeater operators would

1 have paid you a --

2 Q A commission?

3 A -- commission of some sort.

4 Q Now, what was the nature of the arrangement
5 between you and Mr. Kay when you say he bought your
6 business, and you went to work for him? What was the
7 business agreement and relationship just in general terms?

8 A I sold my business to him for a sum of money.

9 Q And what about your going to work for him?

10 A We had a --

11 Q I believe you testified you had a three year
12 employment contract?

13 A Yes.

14 Q Was it your expectation that you might become
15 partners with Mr. Kay at some point down the line?

16 A No.

17 Q Did you ever have any discussions with Mr. Kay
18 regarding anything like that?

19 A I don't recall.

20 Q With anyone else other than Mr. Kay?

21 A I don't recall.

22 Q How did it come to pass that you moved from the
23 position of service manager to the position of general
24 manager? That would be like a step up, would it not?

25 A Yes.

1 Q Was that provided for in your three year service
2 contract?

3 A Indicating what?

4 Q Let me go back and make sure I understood your
5 testimony.

6 You testified that you first came to work for Mr.
7 Kay as a service manager, and in that capacity you were
8 responsible for supervising the testing and installation of
9 equipment and service, correct?

10 A Yes.

11 Q You stated that you held that position for
12 approximately the first year that you worked there. At that
13 point, I guess there would still be two years running on
14 this employment contract when you moved to the position of
15 general manager.

16 Was that provided for in the employment contract,
17 or was that something separate that you and Mr. Kay worked
18 out after a year?

19 A The employment contract didn't really specify job
20 titles or anything of that nature.

21 Q So my question is what prompted your becoming a
22 general manager after you had been a service manager for a
23 year?

24 A Well, the general manager that was there at the
25 time, Roy Jensen, Mr. Kay had let go and so the position

1 needed to be -- I was apparently the next candidate in line
2 to take the position.

3 Q When you had your own business, Mobile Radio
4 Service Station, --

5 A Yes.

6 Q -- was it ever part of your operations to obtain
7 and assist your customers in obtaining FCC licenses?

8 A Yes.

9 Q So were you familiar with the FCC forms and what
10 was involved in preparing them and submitting them to the
11 coordinators of the FCC?

12 A No, I was not familiar with.

13 Q Did you have at least some general familiarity
14 with end user licensing?

15 A Yes.

16 Q Are you aware that there came a time when the FCC
17 stopped requiring end user licenses?

18 A No.

19 MR. KELLER: Give me one minute.

20 (Pause.)

21 BY MR. KELLER:

22 Q Mr. Cordaro, please turn to WTB Exhibit 319,
23 please.

24 A Yes.

25 Q Now, your testimony this morning, I believe, was

1 that you requested this information from Mr. Kay about the
2 time you were entering into the written management
3 agreement?

4 A Yes.

5 Q And that he wrote this out and provided this to
6 you. Is that correct?

7 A Yes.

8 Q What is the difference between a base station
9 license and an end user license, to the best of your
10 understanding?

11 A I don't know any difference.

12 Q Pardon me?

13 A I don't know of any difference between the two.

14 Q Well, do they authorize different functions?

15 A I do not know.

16 Q Mr. Cordaro, could you turn to WTB Exhibit 318,
17 please?

18 A Yes.

19 Q Now, I believe this morning you testified either
20 as to this document or to one very similar to it that it
21 appeared to be a repeater license. Do you recognize this as
22 being authorization for a repeater?

23 A I'm not familiar with the station classifications
24 so I couldn't tell you if this is a repeater license or not.

25 Q Well, let me refer you down to the middle of the

1 page. Do you see there is a listing for transmitter street
2 address, city, county, state, et cetera, and there is a
3 listing there for Santiago Peak, Corona, California?

4 A Yes.

5 Q Okay. I would now refer you please, Mr. Cordaro,
6 to WTB Exhibit 316.

7 On this authorization, you will notice there is no
8 such address, correct? It has transmitter street address,
9 city, state, but it is blank. It just says State of
10 California, correct?

11 A Yes.

12 Q You will also notice back up at the top, ignoring
13 for the moment the class of stations, that the frequencies
14 itself stated on this authorization are 806 through 821
15 megahertz, correct?

16 A Yes.

17 Q There is a range of frequencies. Turning back for
18 a moment to the other one, WTB Exhibit 318, you will note
19 there that the first two listings on frequency, those under
20 Class FB2C and FB2T, have a specific frequency listed at
21 851.4125 megahertz, correct?

22 A Yes.

23 Q Now, based on your years of experience in the
24 radio industry programming radios, selling them, what is the
25 distinction between those two frequency ranges, if you know?

1 A The exhibit on 318 --

2 Q No. 318?

3 A Those are repeater frequencies. 851.4125 would be
4 the repeater frequency.

5 Also compared to the first, the other exhibit,
6 316, this is at least what I understand is a plain, generic
7 user license because it's not specific on frequencies. It's
8 a general 806 to 821, which is the mobile site of
9 transmitting.

10 Secondly, there is no azimuth or latitude/
11 longitude on a transmitter, whereas a repeater would have to
12 have coordinators for it to be --

13 Q Now, is it not true that that is because with a
14 repeater authorization you are authorizing an actual base
15 station transmitter that is located at the mountaintop? It
16 actually has a physical facility that is located at a
17 location with certain geographic planning, correct?

18 A Yes.

19 Q Whereas with a user license, these are authorized,
20 by and large, mobile units which could be wandering around
21 anywhere maybe at many different locations, correct?

22 A Yes.

23 Q It is also true, is it not, that some repeaters
24 frequently operate with more than one channel? More than
25 one frequency might be operating within any given repeater

1 center, correct?

2 A From a given repeater site?

3 Q It is possible to have a repeater authorization
4 that authorizes more than one channel, correct?

5 A Yes.

6 Q The mobile units can be programmed to operate on
7 any number of different channels, correct?

8 A Mr. Cordaro, is not what is in WTB Exhibit 316 and
9 why do you not review that again, just look at it generally.

10 Is this not one of the documents that you produced
11 in response to the subpoena in your first deposition before
12 the FCC?

13 A I don't recall.

14 Q Do you recall at your first deposition that you
15 brought the documents, turned them over, and they were each
16 marked with sequential serial numbers, and then the
17 attorneys went through a process of asking you questions
18 about what each one was?

19 A Yes.

20 MR. KELLER: Would the Bureau stipulate that a
21 copy of what is in WTB Exhibit No. 316 was in fact marked
22 and attached as Exhibit No. 9 to the first Cordaro
23 deposition?

24 MR. KNOWLES-KELLETT: Do you have the Cordaro
25 deposition?

1 MR. KELLER: I have the document. I only have a
2 mini script version of the deposition, but I can --

3 MR. KNOWLES-KELLETT: This is a copy of the same
4 radio station license.

5 JUDGE CHACHKIN: In other words, you are prepared
6 to stipulate it as the same license?

7 MR. KNOWLES-KELLETT: That we have marked a copy
8 of the same license in the deposition.

9 JUDGE CHACHKIN: All right.

10 MR. KELLER: I would just like, if I might, just
11 to read a brief question and answer when this document,
12 which was marked in the deposition as Deposition 8.

13 For the Bureau's reference, page 17 of the
14 deposition of Vincent Cordaro taken on December 10, 1997, in
15 this proceeding, starting at the very bottom of page 17,
16 Line 23. It says:

17 "Q Okay. I am going to show you what has been
18 marked as Cordaro Exhibit 8. It is a four page document,
19 and I would like you to describe that."

20 A little while later on page 18 you answered, Mr.
21 Cordaro:

22 "A This was -- it says it's a license for WNEX
23 -- "

24 MR. SCHAUBLE: Your Honor, I object.

25 MR. KELLER: I am sorry. Strike what I said. On

1 page 18 of that deposition, Line 11:

2 "Q Okay. I am passing you now a document
3 marked as Cordaro Exhibit 9. It appears to be a radio
4 station license. Could you describe that document?"

5 The witness --

6 MR. SCHAUBLE: Your Honor, I think I object to
7 this procedure. The witness --

8 MR. KELLER: I want to refresh the witness's
9 recollection. He is saying now he does not know the
10 difference between a base station license --

11 JUDGE CHACHKIN: Overruled. I will permit it for
12 purposes of refreshing the --

13 BY MR. KELLER:

14 Q Your answer was:

15 "A This is a license for WPPB695. This is a
16 user license. It expires or expired or is expiring
17 11-16-97."

18 Now, you recognized that document at that time as
19 a user license, correct?

20 A Yes.

21 Q Okay. Bear with me for just a moment.

22 (Pause.)

23 Do you understand, Mr. Cordaro, that a user
24 license authorizes the user to operate mobiles on a
25 particular repeater?

1 A Yes.

2 Q Referring again to WTB Exhibit 316, and bear with
3 me just for a moment. The way I am with exhibit numbers,
4 let me make sure I have the right exhibit.

5 MR. KNOWLES-KELLETT: I would question regarding
6 time frame. When you say --

7 MR. KELLER: Well, this witness does not even know
8 that we have entered into any licensing.

9 MR. KNOWLES-KELLETT: Okay. You just said do you
10 know that it authorizes.

11 MR. KELLER: Let me do it this way.

12 BY MR. KELLER:

13 Q Let's refer please again to WTB Exhibit No. 316.
14 Now, you recognize that as an end user license, correct?

15 A Yes.

16 Q Now, you have also just testified you understand
17 that an end user license authorizes operations through a
18 particular repeater. Do you know what repeater this
19 particular end user license authorizes operation to?

20 A Item 316?

21 Q Yes.

22 A Yes.

23 Q What repeater is that?

24 A It shows an area of coverage off of Newbury Park.
25 It doesn't specify the mountaintop.

1 Q Does it specify a call sign?

2 A Yes, it does.

3 Q What? What is the call sign?

4 A WNXR890.

5 Q All right. Let the record reflect, and correct me
6 if I am wrong, you are referring to a call sign that is
7 listed near the bottom of the page of the license where it
8 says "SMRS:", correct?

9 A Yes.

10 Q So to your understanding, that is not the call
11 sign of this authorization, but that is rather the call sign
12 of the SMRS station for which this authorizes the user to
13 operate on?

14 A Yes.

15 Q So at this time frame, and this license has an
16 issue date of November 16, 1992, correct?

17 A Yes.

18 Q In the time frame going from 1992 backwards, if I
19 told you now that an operation required first a repeater had
20 to be licensed to the repeater licensee or the SMR operator
21 and that for any users to be authorized to operate on that
22 repeater they also had to have a separate user license
23 authorizing them to operate mobiles through that repeater so
24 that in fact two separate licenses were required with
25 respect to any series of mobiles. Is that consistent with

1 your understanding of the procedure?

2 A No.

3 Q How does your understanding differ from what I
4 have just said?

5 A Well, as a user, a user and the Mobile Radio
6 Service Station had a user license to operate on a trunk
7 system. All we've ever had was a simple user's license.

8 Q But you understood that you were operating through
9 a repeater, right?

10 A Yes.

11 Q And you understood that somebody had an
12 authorization for that repeater, correct?

13 A Yes.

14 Q And you assumed it was the person from whom you
15 purchased repeater service, correct?

16 A Yes.

17 Q Okay. I did not mean to imply that the user
18 requires two licenses, but what I meant to imply is that
19 both the repeater had to be authorized and the users had to
20 be authorized, and that was done in two separate types of
21 authorizations in this time frame, correct?

22 A Are you asking me?

23 Q I am asking you if that is correct with your
24 understanding, if that is consistent with your
25 understanding?

1 A It is now.

2 Q Okay. I am glad to be of assistance in that.

3 I want to refer you back to WTB Exhibit No. 319.
4 What specifically was it that you asked Mr. Kay for that
5 resulted in his writing out this agreement?

6 A Any licenses with my name on it.

7 Q Now, reviewing over the list, is it not true,
8 first of all, that some of what is on here appear to be
9 listings of applications rather than licenses, correct?

10 A That's what it says.

11 Q Now, Item No. 1 appears to say, "Hold SMRS base
12 station license at Rasnow Peak," and I am reading that as
13 852.4875. Is that the way you read it?

14 A Yes.

15 Q And then it has the word "Granted" on the top
16 there, correct?

17 A Yes.

18 Q What do you interpret that to mean?

19 A That a license was issued on that frequency at
20 Rasnow Peak.

21 Q So you interpret that item listing meaning that
22 Mr. Kay was listing this to mean that you, Vincent Cordaro,
23 hold a base station license for that frequency at Rasnow
24 Peak and that it had been granted?

25 A Yes.

1 Q Item No. 2 I am reading as, "Recently mailed user
2 license for the SMR at Rasnow Peak, 807.4875 megahertz."

3 What do you interpret that listing to mean?

4 Let me ask it this way. What did it mean to you
5 at the time when you read that?

6 A I don't recall.

7 Q What does it mean to you now when you read it?

8 A It means that there was a recently mailed user
9 license for Rasnow Peak.

10 Q Is it not true that sometimes in the land mobile
11 industry when you use the term "I've mailed a license," it
12 means I mailed an application for a license?

13 A I'm not familiar with the term.

14 Q Do you interpret this item as referring to a
15 license or to an application?

16 A To a license.

17 Q Who was the license being mailed to? It says
18 recently mailed. Who would you or Mr. Kay or anyone else be
19 mailing the license to?

20 A Well, I only wanted licenses with my name on them,
21 so I have to assume that's my license.

22 Q Right.

23 A I didn't ask for anyone else's license but my own.

24 Q I understand that, but he says here "recently
25 mailed". What do you think that means?

1 A It means that someone recently mailed a license.

2 Q To whom?

3 A To probably the FCC.

4 Q My question again, and I do not want to get into
5 an argument with you, but would it not make more sense that
6 somebody recently mailed an application for a license to the
7 FCC and that this was just the way it was noted?

8 A If that was the case, it wasn't worded that way.

9 Q Well, look at the item up above where it says
10 "base station license". It looks like the word "Granted"
11 was added in at the top of that afterwards, correct?

12 A Yes.

13 Q There is no such notation on No. 2, correct?

14 A Yes.

15 MR. SCHAUBLE: Your Honor, objection. I think
16 this is getting argumentative.

17 JUDGE CHACHKIN: Overruled.

18 BY MR. KELLER:

19 Q Look at Item No. 3. Before we move onto that, do
20 you see that there is a bracket written around Items 1 and 2
21 and then the word "Related" has been written inside the
22 brackets? Do you have an understanding of what that might
23 mean?

24 A Other than they're both on Rasnow Peak.

25 Q We just went through a discussion where you have a

1 base station license, and then it is also necessary in order
2 to authorize mobiles for there to be a user authorization,
3 correct?

4 A Yes.

5 Q Is it possible that Item 2 is a user license for
6 mobiles to operate on the license that is referred to in
7 Item 1?

8 A Yes.

9 Q Can you think of a more logical explanation for
10 what that notation means?

11 MR. SCHAUBLE: Objection to the form of the
12 question.

13 JUDGE CHACHKIN: Overruled.

14 BY MR. KELLER:

15 Q Do you have a different explanation or one that
16 makes more sense or one that you recall?

17 A It looks like a user license for SMR at Rasnow,
18 807.4875.

19 Q Do you know, sitting here today, what the call
20 sign for Rasnow Peak is?

21 A No, I do not.

22 Q No?

23 A No.

24 Q You do not?

25 A No.

1 Q Look at Item No. 3. Item No. 3 says, "Application
2 for a new SMRS base station at Santiago Peak, 851.4125
3 megahertz," correct? Well, it does not say megahertz. It
4 says 851.4125, correct?

5 A Yes.

6 Q You understood that to mean megahertz, correct?

7 A Yes.

8 Q Below that, what does it say just below that?

9 A "Pending at the FCC."

10 Q Okay. What is your interpretation of Item 3?

11 A Application for a new SMRS base station at
12 Santiago Peak, 851.4125, pending at the FCC.

13 Q Well, let me ask it this way. Is it correct that
14 you understood this to mean that you had an application at
15 the time this was prepared pending before the FCC in your
16 name?

17 A Yes.

18 Q And that the application was for a new SMRS base
19 station?

20 A Yes.

21 Q The next item, my copy has been punched through,
22 but I am assuming it is Item 4. It says, "Application for
23 SMRS user license to use JK SMR, WNXS753, for various
24 frequencies...Site, Rasnow Peak, 17 mobiles..."

25 MR. SCHAUBLE: Correction, counsel. You said

1 Rasnow Peak. It is Santiago Peak.

2 MR. KELLER: Santiago Peak. I am sorry.

3 BY MR. KELLER:

4 Q What is your interpretation of that entry?

5 A That there's an application with my name on it for
6 an SMR user license to use JK's SMR license, WNXS753.

7 Q Do you know what the significance of the next
8 line, "Same frequency as Doering's SMR," is?

9 A Yes.

10 Q What is the significance of that?

11 A James Kay has had a lot of problems with Doering
12 on frequency coordinations.

13 Q First of all, who is Doering?

14 A I don't know Doering.

15 Q If I told you that this was referring to Jim
16 Doering, would that --

17 A Jim Doering, yes.

18 Q Do you know who Jim Doering is?

19 A I don't know him personally, no.

20 Q Do you know who he is?

21 A I know of him.

22 Q Do you know that he is another SMR operator, or at
23 least at this time was another SMR operator in the L.A.
24 area?

25 A No.

1 Q So you did not know at the time who he was?

2 A No.

3 Q So of what use was this information to you? What
4 did it have to do with you?

5 A That I was sharing a frequency with Jim Doering.

6 Q How about the listing of Attorney Curt Brown,
7 Brown and Schwaninger, Attorney-at-Law? Why was that
8 information useful to you, given what you requested of Mr.
9 Kay?

10 A I guess if I had any questions, I could have
11 called Curt Brown.

12 Q Why would you call Curt Brown regarding pending
13 applications and existing licenses?

14 A I wouldn't have any reason to call.

15 Q Do you have any knowledge regarding the way in
16 which the process which Mr. Kay went through in preparing
17 FCC applications either for himself or for his customers?

18 A The process of filing --

19 Q Yes.

20 A -- a license?

21 Q Do you know whether or not a general license --
22 whether a license for a base station, whether it was a
23 license for an end user application, routine applications to
24 the FCC -- do you know whether or not Mr. Kay generally
25 filed those himself or whether he used an attorney to file

1 them? I only want if you know.

2 A No, I do not.

3 MR. KELLER: I do not even know if this is a
4 matter of stipulation, but I think it is a matter of
5 official notice.

6 It will probably save time if we can stipulate to
7 a time frame for the elimination of end user licensing by
8 the FCC. Would October '92, be accurate?

9 MR. KNOWLES-KELLETT: I believe it is October, but
10 you can cite the item.

11 MR. KELLER: But it is correct that it is 1992?

12 MR. KNOWLES-KELLETT: Right.

13 MR. KELLER: Are we all also in agreement that
14 that means at that time the FCC was granting no future
15 applications for end user licenses? Well, there were
16 exceptions, but in the SMR service.

17 MR. KNOWLES-KELLETT: Right.

18 MR. SCHAUBLE: With very little exceptions.

19 MR. KELLER: I understand.

20 JUDGE CHACHKIN: So we have a stipulation to that
21 effect.

22 MR. KNOWLES-KELLETT: You are just using it to try
23 to date this?

24 MR. KELLER: That is right. I will go ahead and
25 say it right on the record since the witness -- well, let me

1 ask some more questions of the witness.

2 MR. KELLER: Mr. Cordaro, please get what is WTB
3 Exhibit No. 351. This is not going to be in one of the
4 binders. This is one of the documents that was handed to
5 you this morning.

6 It is the September 4, 1992, letter on Brown and
7 Schwaninger stationery. '92. I am bad with numbers. It is
8 going to be a confusing record by the time I get done.

9 Excuse me one moment.

10 (Pause.)

11 BY MR. KELLER:

12 Q Mr. Cordaro, first of all, this morning you
13 testified that you were not familiar with this document or
14 had never seen it before. Is that correct?

15 A I'm not familiar with it. I don't recall it.

16 Q Well, I have the same question about it. Is it
17 not true that a copy of or a version of this document was
18 among the items that you produced at your first FCC
19 deposition?

20 A I don't recall.

21 MR. KELLER: Could I get the Bureau to refer to
22 Exhibit 7 of the Cordaro deposition? I think it is Exhibit
23 7.

24 MR. KNOWLES-KELLETT: Do you recognize these
25 exhibits with you?

1 MR. KELLER: Yes, I do, but we can also refer to
2 here is the exhibit. I think it is the same as your exhibit
3 351, I believe. I think it is Exhibit 351.

4 Not your 351. I am sorry. The one you referred
5 to at the end of that line of questioning this morning.
6 314. I believe WTB Exhibit 314, which is not in evidence,
7 has not been admitted, is I believe the same as Exhibit 7
8 from the December 10th Cordaro deposition.

9 MR. SCHAUBLE: Your Honor, it appears to be the
10 same.

11 JUDGE CHACHKIN: All right.

12 MR. KELLER: My only point right now is I want to
13 establish that.

14 BY MR. KELLER:

15 Q Have you had a chance to look at Exhibit 314?

16 A Yes.

17 MR. KELLER: Now, are we in agreement that this
18 was Exhibit 7 in the Cordaro deposition?

19 MR. SCHAUBLE: It appears to be.

20 MR. KELLER: Am I correct? I was not counsel at
21 the time, but my understanding is all the exhibits at the
22 December 10 Cordaro deposition are documents that Mr.
23 Cordaro produced in response to the subpoena.

24 MR. SCHAUBLE: Not all of them, but I believe
25 Exhibit 7 was one of them.

1 MR. KELLER: All right.

2 BY MR. KELLER:

3 Q Mr. Cordaro, do you recall? Is this one of the
4 documents that you produced during your deposition?

5 A I don't recall.

6 Q Whether it is or is not, can you look at that
7 document, Mr. Cordaro? Let me get my copy. I want to make
8 sure I am looking at exactly the same copy you are so there
9 is no confusion.

10 Do you notice that across that document that there
11 is what I believe is commonly referred to as a fax header?

12 A Yes.

13 Q What is the date on that fax header?

14 A September 3, '92.

15 Q Does it indicate what company it purports to have
16 come from?

17 A Brown and Schwaninger.

18 Q And what telephone number?

19 A (202) 659-0071.

20 MR. KELLER: All right. I believe that one could
21 check, and there could be official notice that certainly 202
22 is a D.C. area code, but I believe it would be easy to
23 verify that that is Brown and Schwaninger's fax number.

24 BY MR. KELLER:

25 Q Mr. Cordaro, where did the documents that you

1 produced at your deposition come from?

2 I understand that you do not remember for sure
3 whether this was or was not, but you produced a collection
4 of documents, including the disk, which there was discussion
5 about. You brought them to your December 10 deposition,
6 correct?

7 A Yes.

8 Q Where did you get these documents?

9 A From a box I had in my garage.

10 Q Let me now ask you to look at Exhibit 351.

11 MR. KELLER: Just so the record is clear, and I
12 think we clarified an understanding on the record that the
13 Bureau stipulated to.

14 Is the Bureau willing to stipulate that this was
15 one that Mr. Cordaro produced? If not, can we get some
16 education as to what the source of this particular document
17 was?

18 JUDGE CHACHKIN: Which are you talking about?

19 MR. KELLER: I am sorry. Back on Exhibit 314. I
20 am asking if the Bureau stipulates --

21 JUDGE CHACHKIN: I thought they already agreed to
22 stipulate.

23 MR. KELLER: They said that that was their
24 understanding. It was just suggested to me that maybe we
25 need to make sure it is a clear stipulation.

1 MR. KNOWLES-KELLETT: The letter?

2 MR. KELLER: Yes. That was among the documents
3 produced by Mr. Cordaro at his deposition?

4 MR. KNOWLES-KELLETT: It is not in evidence, so --

5 MR. WALLUCK: We are stipulating around the
6 witness's testimony?

7 JUDGE CHACHKIN: Pardon me?

8 MR. WALLUCK: We are stipulating around the
9 witness's testimony?

10 MR. KELLER: Well, the witness cannot tell for
11 sure. He knows he produced documents, but he says he does
12 not remember this particular document for sure one way or
13 the other. I just want the record to be clear where this
14 document came from.

15 MR. KNOWLES-KELLETT: I think the record is not
16 clear where it came from, and it is not in evidence. To the
17 best of our recollection, it came from him. You know, you
18 do not have --

19 MR. KELLER: Well, let me try to explain my
20 problem this way. The witness does not remember for sure,
21 so the witness cannot say for certain that it was or was
22 not. The deposition transcript certainly indicates it was.
23 This is a document that you offered --

24 MR. KNOWLES-KELLETT: Where does it indicate that?

25 MR. KELLER: Well, in context. If you read the

1 overall deposition, the December 10 deposition consisted of
2 little more than running through a catalog of the documents
3 that he brought with him to the deposition. -- they wrote
4 the deposition.

5 Now, this was offered. I realize it is not in
6 evidence yet, but it was offered by the Bureau.

7 MR. KNOWLES-KELLETT: No. The exhibit could not
8 come in.

9 MR. KELLER: Exhibit 314 was offered.

10 JUDGE CHACHKIN: Wait a minute. It was offered by
11 the Bureau in this proceeding.

12 MR. KELLER: And so I am --

13 MR. SCHAUBLE: It was rejected --

14 JUDGE CHACHKIN: It was rejected only --

15 MR. SCHAUBLE: -- based on Mr. Kay's objection.

16 JUDGE CHACHKIN: -- because there was no affidavit
17 attached to it. I said I wanted the original affidavit. If
18 there was another purpose, I will receive it.

19 MR. KNOWLES-KELLETT: Okay, but if he is offering
20 it, he has to establish --

21 JUDGE CHACHKIN: Wait a minute. Wait a minute.
22 Let's not play games here. We are not in a game here.

23 If you in fact obtained that document from Mr.
24 Cordaro prior to the deposition and that was one of the
25 documents, then stipulate to it.

1 MR. KNOWLES-KELLETT: Sir, at the deposition he
2 brought in a bunch of documents.

3 JUDGE CHACHKIN: Was this one of them?

4 MR. KNOWLES-KELLETT: To the best of my
5 recollection, I stated on the record that it was. I cannot
6 be certain. It was amongst the --

7 JUDGE CHACHKIN: What other source of documents
8 did you have concerning this except for this witness, from
9 Mr. Cordaro, as far as this Brown statement is concerned?

10 MR. KNOWLES-KELLETT: I think Your Honor could
11 find an inference from the testimony --

12 JUDGE CHACHKIN: I do not want to draw an
13 inference. As far as I am concerned, the record will
14 reflect that this is one of the documents which was received
15 from the Bureau.

16 MR. KNOWLES-KELLETT: I am not trying to be --

17 JUDGE CHACHKIN: Fine.

18 MR. KNOWLES-KELLETT: I believe, Your Honor, to
19 the best of my recollection, and I could tell you what I
20 know. What I know is the record reflects that we went
21 through, as Mr. Keller said, documents produced by Mr.
22 Cordaro. This was amongst them.

23 JUDGE CHACHKIN: Fine.

24 MR. KNOWLES-KELLETT: We did not discuss, however,
25 in that record the source of it.

1 JUDGE CHACHKIN: Well, Mr. Cordaro gave it to you.
2 That is all I am interested in. That is where you obtained
3 it from.

4 MR. KELLER: All I am asking, Your Honor, is if
5 Mr. Cordaro did not give it then where did it come from?

6 Could I do one thing? Could I ask the witness to
7 step outside just for a moment?

8 JUDGE CHACHKIN: Yes.

9 MR. KELLER: I want to make one statement about
10 this. Are we still on the record?

11 JUDGE CHACHKIN: Do you want to be on the record?

12 MR. KELLER: Yes, I want to be on the record.

13 JUDGE CHACHKIN: All right.

14 MR. KELLER: Here is my concern. This is my
15 interest in this, not a concern.

16 There is some dispute by this witness, first of
17 all, as to whether he even remembers signing the affidavit,
18 although he does say --

19 MR. KNOWLES-KELLETT: He said in the deposition I
20 do not remember either.

21 MR. KELLER: Can I finish my thing? He does say
22 that this is his signature, although he is denying that he
23 remembers or he does not remember whether he looked at this
24 letter or whether he saw this letter before he signed it, et
25 cetera.

1 This document, which appears to have come from
2 him, produced to you in response to your subpoena, is at
3 least some evidence that a draft of the letter predated
4 before it was dated, so it was obviously not a final draft,
5 and before it was signed, was faxed to somebody from Brown
6 and Schwaninger and ended up in Mr. Cordaro's possession.

7 That is some evidence that at least he saw the
8 letter before he executed the affidavit.

9 MR. KNOWLES-KELLETT: Your Honor?

10 JUDGE CHACHKIN: Yes?

11 MR. KNOWLES-KELLETT: Your Honor, he read the
12 deposition where it talks about this exhibit. He said:

13 "A I'm not aware of the letter really and have
14 since thought it was just given to me."

15 "Q By whom?"

16 "A Mr. Kay."

17 "Q Did you execute the affidavit?"

18 "A I don't recall."

19 MR. KELLER: I understand that.

20 MR. KNOWLES-KELLETT: That is all he knows about
21 that.

22 MR. KELLER: I understand that, but at least it is
23 some evidence that --

24 MR. KNOWLES-KELLETT: Why do you not just refresh
25 his recollection that Mr. Kay gave him the document?

1 MR. KELLER: You are certainly welcome to do
2 redirect if you want. All I want to establish right now is
3 that he had the document in his possession.

4 MR. KNOWLES-KELLETT: Well, I have told you to the
5 best of my recollection that that is true.

6 MR. KELLER: All I am asking --

7 MR. KNOWLES-KELLETT: You are asking me to
8 testify.

9 MR. KELLER: No, I am not. No, I am not. No, I
10 am not. I am asking this. If you have some doubt, I mean,
11 are you telling me you have no knowledge of the source of
12 the documents that you are offering into evidence against
13 Mr. Kay, where they came from?

14 MR. KNOWLES-KELLETT: We were going to ask Mr.
15 Cordaro, and he does not remember.

16 MR. KELLER: Okay. All right. We can bring the
17 witness back in.

18 JUDGE CHACHKIN: All right. Let's bring him back.
19 I do think that under the circumstances, we should
20 put in the record the draft.

21 MR. KELLER: Well, I was going to. I guess the
22 first thing I wanted to do is in light of the fact that we
23 now have the signed and executed version, the dated letter,
24 the executed version of the declaration, et cetera, mainly
25 WTB Exhibit No. 351, in evidence, I am wondering if, for the

1 record to be complete, 314 should not now also come into
2 evidence as well.

3 I do not know whether to move it into evidence as
4 a Kay exhibit or just ask that you now receive WTB Exhibit
5 314.

6 JUDGE CHACHKIN: I will receive WTB Exhibit 314 in
7 view of what has transpired.

8 (The document referred to,
9 having been previously marked
10 for identification as WTB
11 Exhibit No. 314, was received
12 in evidence.)

13 MR. KELLER: You now have the two documents
14 together, and the record is clear.

15 JUDGE CHACHKIN: That is right.

16 BY MR. KELLER:

17 Q Mr. Cordaro, please refer to WTB Exhibit No. 351.
18 Again, this is the separate document that you were provided
19 with this morning.

20 I want to refer you to the fourth page in, the
21 first attachment to that document, which you testified as
22 being your fictitious business name filing, I believe,
23 statement?

24 A Yes.

25 Q There is a reference on Item 1 there. Do you see

1 No. 1 there? There is a one and a circle, VSC Enterprises.
2 Then to the right is No. 2, something called Mobile Radio
3 Thousand Oaks. What is that?

4 A That was another d/b/a.

5 Q Now, you also testified this morning that even to
6 this day you believe that VSC Enterprises is still a valid
7 filing. Is the same true of Mobile Radio Thousand Oaks?

8 MR. SCHAUBLE: Objection. Relevance.

9 JUDGE CHACHKIN: Overruled.

10 THE WITNESS: I don't believe so.

11 BY MR. KELLER:

12 Q Why would it not be valid if VSC Enterprises is?

13 A I think a filing is only good for five years, and
14 this was filed before I sold the business. After I sold the
15 business, there was no need to refile it.

16 Q So you are telling me you have done subsequent
17 filings for VSC Enterprises?

18 A I believe so, yes.

19 Q Did you provide this document to Mr. Kay or to his
20 attorneys?

21 A I don't recall.

22 Q Do you know of any other means whereby Mr. Kay or
23 his attorneys would have obtained this document?

24 A It's public record.

25 Q Referring to the next page, the declaration --